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## Howell Cobb Papers

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In 1913 The American Historical Association published as Volume II of the Annual Report of the Association for 1911 the *Correspondence of Robert Toombs, Alexander H. Stephens and Howell Cobb*, edited by U. B. Phillips, now Professor of American History in the University of Michigan. One of the collections of manuscripts drawn upon by Professor Phillips was the Cobb papers in the possession of Mrs. A. S. Erwin, of Athens, Ga., a daughter of General Cobb. This collection is very considerable in size and of great historical importance. Its treasures were by no means exhausted by Professor Phillips, who was forced by the necessity of economizing space to omit many letters.

Since the publication of the volume above referred to, the present editor has undertaken a biography of Howell Cobb, and in this connection has again worked through the Erwin collection. The letters and other papers of the collection have never been gathered in orderly arrangement, but are stored in boxes which contain not only the papers of historical value, but thousands of practically worthless miscellaneous papers of one sort and another.

The selection which will be printed in consecutive numbers of The Quarterly comprises about 150 letters written by Howell Cobb or to him. These letters touch all phases of his life from 1840 to his death in 1867. For biographical purposes a few letters of a personal nature are included as well as a number bearing on Cobb's farming interests. For the most part, however, the letters relate to his political career. The period of his greatest activity was 1848 to 1854, so that the bulk of the more important letters fall between those years.

In addition to correspondence there will be printed a number of Cobb's speeches and addresses to his constituents and others. Only such will be given as are not easily accessible.

They have generally been taken from old newspaper files or from pamphlets in the Erwin collection.

The editor has examined the papers of Cobb's contemporaries in the Manuscripts Division of the Library of Congress, without, however, bringing to light any letters of importance not already in print. He has also searched through the Executive Files of Georgia for the period of Cobb's governorship, and among the documents to be printed there will be included several papers from this source, together with one or two messages to the Legislature. Unless otherwise specified, all documents to be printed are taken from the Erwin collection in Athens.

It seems likely that all of the existing Cobb papers of importance will with the publication of this series be available to historians. Professor Phillips prefixed to his volume a calendar of Cobb papers published before the appearance of the Toombs, Stephens and Cobb correspondence, as well as the papers printed in that volume.

In the letters to be printed in *The Quarterly* numerous omissions will be found. In some cases these omissions have been made by the editor in the interest of economizing space; in other instances the omissions were made at the request of owners of the papers for reasons satisfactory to them. The matter omitted is of little or no historical importance.

The first installment of the papers is not of special interest or importance, except that the long letter of July, 1842, shows that even at the outset of his political career Cobb leaned towards the Unionist position and mistrusted a too rigid insistence on State sovereignty.

### JOSEPH MCGHEE TO JOHN B. LAMAR<sup>1</sup>

Swift Creek Plantation [-----Co., Ga.] Oct. 8, 1839.  
Mr. Lamar:

I received your letter on the 7 of Oct. am glad to hear from you nothing new on the plantation Sam is sick he is

1. A prominent Georgia planter and brother of Mrs. Howell Cobb. He managed the Cobb planting interests as well as his own, thus relieving Cobb from business cares and enabling him to devote his energies largely to politics. Lamar entered the Confederate States Army as a colonel and was killed at Crampton's Gap, Md.

giting better. Randley is sick the reste of the Family is all well I has picked the swamp over the secon time and has gote Forty thousan pouns of cotton oute of the swamp an I think their will be 15 or twenty thousan to open yet the Froste has kiled the swamp cotton. In all the cotton that I has gote oute is Seventy seven thousan pouns in all and I think I has gote about fifty thousan pouns to pick yet. I shall commens on thursday morning to gether corn and I shall continu until I git dun. I shall keepe half of the hans picking cotton. I has note yet dun the Fens for the Durden feil. I Stopped all of my hans to pick the swamp cotton. I shall now starte all of my men to putting the fens up an when I git it dun I shall pute them all to splitting rails around the plantation untill I gite rails enough to repara all the fences. I entende to pute the plantation in firstrate repara tho it will take sometime to do it their shall be nothing lacking on my side of tending to the business and I shall pay every attention that is in my power. I shall gite the crope oute as soon as posible an prepar for another crope I shall have all the work dun that can be dun between now an Christmus. It will be oute of the power to make the fens from the black lake brige this fall their is more work to do on the plantation than can be dun by the nexte planting time and if i plant for you nexte year I shall want to plante four hundred acres in cotton an the remainder in corn. I do wante to see another crope maid on the plantation that is if we can gite rain to make it with everything is as dry as it can be we cante git no meal we have to make use of hominne for bread. It is oute of the question to gite meal. You mention aboute Jim darby having a freepass I have gote it he sais he gote it from a Irish man on the railrode by the name of Lary they has caried him back & ses that Dennis is runaway agin.

You mention in your letter that you ar willing for me to continu with you another year I am willing to stay with and more than willing to do all I can for you as an overseer. It is always my rule to do all I can. Your business is worth more than five hundred dollars I will take five hundred and fifty

dollars. I shall be glade to heir from [you] shortly on the subject.

Your unble servant

P. S. I has only gote fourteen bags of cotton packed my gin broak an it tuck somtime to gite it dun their will be no better cotton go to market this season.

HOWELL COBB TO THE COMMITTEE  
APPOINTED TO NOTIFY HIM OF HIS  
NOMINATION FOR CONGRESS<sup>1</sup>

Athens, Ga., July, 1842.

Gentlemen:

I acknowledge the receipt of your favour of the inst. communicating my nomination by the democratic convention as one of their candidates for Congress at the approaching fall elections, and thank you for the friendly manner in which you have been pleased to communicate the wishes of our political friends. At the time I consented that my name should be submitted to the convention for nomination the apportionment bill which has since passed Congress and received the official approbation of the president was not expected to become the law of the country.<sup>2</sup> The opposition which had been engendered in Congress to some of its leading features and the known hostility of the President to others had induced the opinion that it must undergo material alterations to obtain the favor of the majority of the one and receive the official sanction of the other. Public expectation in this regard has been disappointed. The bill has traveled successfully through all the forms and solemnities required by the Constitution, and must now be considered the law of the land unless it be adjudged violative of the Constitution. The effect which this action of the general government must pro-

1. From a draft in Cobb's handwriting among the Erwin papers. The letter may never have been sent to the committee. If so, Cobb changed his mind afterwards, accepted the nomination and was elected.

2. At the time of the reapportionment of 1842 Congress required the districting of the States for Congressional election purposes. The Legislature of Georgia failed to district the State in time for the election of 1842, opposition arising on grounds stated by Cobb in this letter. The election of 1842 in Georgia was therefore on a general ticket. Cobb's fear that Congress would not recognize members so elected proved groundless, as the new members, Cobb among them, were allowed to take their seats. The Georgia Legislature districted the State by Act of Dec. 23, 1843.

duce upon the laws of Georgia under which we have heretofore chosen our representatives in Congress should be well understood and definitely settled before any election is held in order to avoid future difficulties that might arise from pursuing an injudicious course.

Has Congress then transcended its powers in the passage of this bill? The power is claimed by the Federal government under the first article of the fourth section of the Constitution, which is in these words, "The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the places of choosing senators." Take this clause of the Constitution in connection with the first article of the fifth section which declares that each house shall be the judge of the elections, returns and qualifications of its own members, and it presents the strongest argument that can be urged in favor of the position that such power as is now exercised was intended by the framers of the Constitution to be delegated in all its length and breadth. The object contemplated by those wise and enlightened statesmen who adopted this Constitution, was evidently to place the Federal Government in the exercise of the delegated powers supreme and sovereign above the power of state legislatures, and in order to do this effectually they readily perceived the absolute necessity of placing the organization of the federal government under its own ultimate control, thus placing it beyond the power of the state government to interpose obstacles and difficulties to the regular and uniform operation; otherwise the federal government would be a mere creature at will, dependent for its existence upon the pleasure of the several states, and not upon the sovereign exercise of its delegated powers and the constitution a mere contract, possessing no other binding efficacy than the voluntary submission of the states, to its provisions and its laws made in pursuance thereof, so long as such submission was congenial to the feelings and wishes of each state and no longer. An acquiescence for a moment in such a doctrine would be a reflection on the

wisdom, foresight, and ability of the Convention of '87, which every citizen of the Union should resist with indignation.

Hence it was that the same power over the election of the members of Congress was delegated to the federal government to be exercised at its will and pleasure, that was reserved to the states, until such time as the federal government should see proper to assume it. Have the states then the power to lay off congressional districts, for this is the objectionable feature in the apportionment bill which creates the present difficulties. The history of the government affords the most satisfactory solution of this question. A large majority of the states have adopted the district system until there only remains a few who elect by general ticket, and this has been done too at a time when the very men who framed the constitution were still active participants in every political movement in the completion of that wonderful machinery of government which their powerful minds had just moulded into being. The contemporaneous opinions of Mr. Madison, the impress of whose vigorous intellect can be traced in almost every line of the Constitution, will throw much light upon the subject, not only as regards the power of the states but also of the general government as delegated in this very article of the Constitution. When called upon in the Virginia Convention to explain the object for which this article had been adopted he says [quotation omitted in original]. There are other considerations which have had their due influence upon my mind in producing the conviction that Congress has not transcended its powers in the passage of this bill, but the time which I have already occupied upon this branch of the subject forbids that I should notice this at the present time.

The most plausible objection urged to the operation of this bill is made by those who admit the constitutional power of Congress to legislate upon the subject, but deny their power to require legislative action on the part of the State government to give effect to their laws, admitting that if Congress had proceeded one step further, and had made provision for the districting of the state without the intervention of the state authorities, that there would have been no con-

stitutional objection to the bill and that we would have been compelled to have yielded obedience. This objection is founded upon the erroneous supposition that the general government cannot require state legislation to give effect to her own laws. In this very bill does not the alteration of the ratio of representation demand legislation in every state, where the members are chosen by districts? Most assuredly new districts must be laid off. In some the number of districts are being increased, in others diminished, and in all such states some alteration being rendered necessary by the change of ratio. Carrying out this doctrine that the law is incomplete in its shape and is therefore not binding upon the states, until they may see proper to perfect it, and it will result in a most disorganizing state of things. Let us for a moment lose sight of the district feature and consider the bill in reference only to the ratio of representation, and see in what position this doctrine might place the general government. In Georgia the act of Congress as far as regards the ratio of representation would be perfect and complete and therefore operative and obligatory as no state legislation is necessary to give effect to that portion of the bill. We would elect our representatives upon a ratio of 70,680 as contemplated by the present bill. Would not these members be entitled to their seats apart from the district feature? None will deny it. In South Carolina the change of the ratio demands the action of their State Legislature in laying off new districts, but this Congress cannot do according to the doctrine I am endeavoring to repel. What is the result; the law is incomplete and inoperative. Congress has not gone far enough in altering the present law of Carolina, and hence she proceeds to an election under her present laws. Would her members thus chosen be entitled to their seats? If so, South Carolina will be represented in Congress upon a basis of 47,700 and Georgia upon a basis of 70,680. This cannot be. No one will for a moment entertain the idea that such a state of things would be countenanced as being in accordance with either the letter or spirit of the Constitution and yet the doctrine I am endeavoring to combat would necessarily carry into the support of



this gross absurdity. I cannot draw any distinction between the duty of the State of Georgia to perfect the law of Congress in reference to districts by the action of her legislature and the duty of Carolina to do the same thing in reference to the feature of the ratio of representation, and if the one be null and void for its incompleteness so must also be the other. And if Georgia can disregard the requisition of Congress to district, South Carolina can with the same propriety refuse to reduce the number of her districts as required by the new ratio, each equally requiring state legislation to perfect the act of the federal government.

We are sometimes gravely asked to point to any article in the Constitution, which requires the state legislature to pass laws at the requisition of the general government. It is true that none such can be found, nor is it necessary for the purposes of the present argument. If the positions heretofore assumed be well founded Congress in passing the apportionment bill has acted within the limit of her delegated powers, and the law being made in pursuance of the constitution becomes the "supreme law of the land" and the states are as much bound to yield to it and give all their aid and assistance to its perfect and successful operations as they are to comply with the plainest requirement of the letter of the Constitution. That sacred instrument itself which we have been taught from infancy to reverence as the inestimable gift of wise and patriotic fathers, professes no distinction between those duties imposed within its own limits, and such [as] are made in conformity with its provisions, nor indeed can any be drawn. They are alike binding, equally requiring our cheerful acquiescence.

Having settled the constitutionality of this measure and the duty of the states as demanded by its provisions, no good can result from a discussion of its expediency at present, and should only be resorted to for the purpose of effecting a repeal of the law when it is ascertained that a majority of the people are opposed to the alteration it proposes to make. It is to consider the expediency of a measure when it is presented to us, clothed with the power of a law passed in pursuance of

the constitution. If the law is constitutional, submit to it, if it is inexpedient, repeal it at the proper time and in the proper way. If I have taken a correct view of this subject the election in October next will conflict with the act of Congress which I have been considering, and the individuals chosen at that time cannot be entitled to their seats unless the next session of the present Congress should repeal so much of the bill as contemplates the districting the states. In that event I am not prepared to say that the election would be void, but if such repeal should not take place and I scarcely think it will, what position will the state of Georgia occupy? She must either go unrepresented or else her next legislature must lay off the state into congressional districts and provide a second election previous to the meeting of the next Congress. In either event the election in October promises to be productive of much harm and no good, for upon the happening of the first contingency, it would be a source of deep mortification to see the interest of our people at so important a crisis wholly unrepresented in our national councils, or upon the happening of the other to behold Congress squandering the public treasure in profitless debates over the question of contested seats from Geo.

Entertaining these views you will perceive, gentlemen, that it would be an injustice to those who have placed my name in nomination as well as to myself not to withdraw my name from the contest. I regret that a difference of opinion should exist among our political friends upon this subject, especially at a time which requires a united and energetic effort to place the administration of the general government back into the hands of the republican<sup>1</sup> party who have been temporarily thrown into the minority.

JOHN B. LAMAR TO HOWELL COBB

Macon, Ga., Oct 26th., 1842.

Dear Howell:

Yours of the 22nd inst came to hand this evening, and I can return your congratulations with a sincerity based on the knowledge of your ability to sustain a handsome reputation

1. i. e., the Jacksonian Democratic party.

in Congress, and a pride that I shall witness your success, if I am myself unable to add my full quota to our joint stock of character, there. You have promise Howell of a long life of political fame; I may be able to aid in sustaining you in your career hereafter, but I shall never be able to acquire that prominence to which you are destined. In fact I do not desire it, as one term—if we are admitted to our seats—will satisfy all my ambition. I expect to gain very little reputation at Washington myself, and it would be hard for me to tell exactly my motives in permitting myself to be sent there,—it perhaps originated in a vanity, not to pass through the world as a perfectly obscure individual, although my uncertain health, bad voice, weak lungs & want of practice in public speaking, does not promise that I shall emerge far from the horizon of obscurity. . . .

You allude to the uncertainty of obtaining our seats. We will talk that over when we meet in Milledgeville<sup>1</sup> during the first week of the Session. I can tell you however now, I shall contest my seat and have it if it can be had, and hope no false delicacy will restrain you from pursuing a similar course—at this stage of matters. However, we will talk that over in Milledgeville.

### ALBON CHASE<sup>2</sup> TO HOWELL COBB

Athens, Ga., Dec. 15, 1843.

My dear Sir,

I am just in receipt of your favor of the 11th. inst. and have to thank you, not only for this, but the other evidences of your friendship since your arrival at Washington. It is not only agreeable but useful to me, to be informed of matters and things at the seat of Government during the session, and I hope you will not weary in well doing, but give me an epistle as often as you can find leisure to write.

I am glad to hear that you were permitted to take your seat without difficulty, and that you have no doubt of retain-

1. At that time the State Capital.

2. Editor of *The Southern Banner*, at Athens, Ga. This paper was regarded as Cobb's organ.

ing it. I presume, as the House is the exclusive judge of the qualifications of its members, that its decision in regard to the seats of those elected by general ticket, will be not only legal, but right, though I would have been glad had they all been elected by districts. This subject, however, is not likely to be agitated here again. Our Senate has passed a district bill, (the same which I had the honor to suggest last year,) and I think the House will concur in it. If so, we shall continue to consider you a citizen of Clark, and take care that your interests in reference to the next election, do not suffer by your absence.

You have learned, of course, that we have held a Presidential Convention. I cannot but feel gratified that this measure, urged publicly only by myself should be carried. Its results too are satisfactory. Mr. Van Buren's friends, I am told, were largely in the majority, but they preferred not pressing a nomination for they desire harmony, and did not wish to follow the example set them in June. I could not go on account of the situation of my wife, who yesterday presented me with a fine daughter.

I think we shall give the Whigs a fine race, if we do not beat them in January; and that we shall give to the Baltimore nomination a decided support. You will perceive that the spirit of the resolution of our Convention, is that the delegate should vote for him who seems to be the favorite of the party throughout the Union. Of course this will be our friend Van.

Please get acquainted with the New Hampshire members and tell them I am true to the principles of my native State. Neither of them know me; and I have never seen either of them except Senator Pierce to whom I was introduced at Concord in 1832, when he was speaker of the House in the State Legislature.

I suppose you have other correspondents to give you local news. I shall write occasionally, but hope to hear from you often.

I send you a list of the papers of this State, which is complete, with perhaps one or two unimportant exceptions.

[Postscript to the above letter. D, Democrat; W, Whig].  
Savannah, Georgian, D. Republican (Whig).  
Augusta, Constitutionalist, D. Chronicle and Sentinel, W.  
Washingtonian, Temperance.  
Washington, Wilkes County News, W.  
Athens, Banner, D.  
Dahlonega, Mountain Times, D.  
Cassville, Pioneer, D.  
Marietta, Cobb Co. Advocate, D. Helicon, W.  
Newnan, Coweta Co., Banner.  
Fayetteville, Fayette Co. Advertiser, D.  
Madison, Morgan Co. Miscellany, W.  
Milledgeville, Federal Union, D. Journal, W. Recorder, W.  
Macon, Telegraph, D. Messenger, W.  
Columbus, Times, D. Enquirer, W. Muscogee Democrat.  
Fort Gaines, Early Co. Whig.  
Albany, Baker Co. Courier, W. Albany Patriot.  
Sandersville, Washington Co. Telescope, Neutral.  
Monroe Co., Forsyth, Little Georgian, Neutral.  
Griffin, Pike Co., Jeffersonian, D.  
Penfield, Greene Co., Index (Baptist).  
LaGrange, Troup Co., Herald, W.